

<b>MORRIS COUNTY PROSECUTOR'S OFFICE DIRECTIVE</b>		
<b>SUBJECT: IMMIGRANT POPULATION IN NEW JERSEY COMMUNITIES</b>	<b>NUMBER: Volume 1 Chapter 22</b>	
<b>EFFECTIVE DATE: March 5, 2019</b>	<b>DISTRIBUTION TO: ALL COUNTY AND LOCAL LAW ENFORCEMENT AGENCIES OPERATING IN MORRIS COUNTY</b>	<b>ISSUED BY: PROSECUTOR FREDRIC M. KNAPP</b>
<b>CANCELLATION DATE: This Directive rescinds the Immigration Directive issued by Prosecutor Robert A. Bianchi on August 23, 2007.</b>		<b>APPROVED BY: PROSECUTOR FREDRIC M. KNAPP</b>

**PURPOSE**

Individuals are less likely to report a crime to the authorities if they fear that law enforcement will release them to immigration authorities. This reluctance may inhibit solving crimes and arresting offenders, as well as potentially exposing others to victimization. To address this issue, Directive No. 2018-6 was issued by the State of New Jersey, Office of the Attorney General. Directive 2018-6 also repeals and supersedes the provisions cited in AG Directive 2007-3. The purpose of this Morris County Prosecutor's Office Directive is to codify the orders disseminated by the Attorney General and to provide a uniform mandate to county and municipal law enforcement agencies operating in Morris County.

**GENERAL**

Nothing in this Directive limits New Jersey law enforcement from enforcing New Jersey state laws. Moreover, this Directive does not mandate that New Jersey law enforcement provide assistance in any particular circumstance, even when, by the terms of the Directive, they are permitted to do so. While New Jersey state, county and local law enforcement are charged with enforcing state laws, there is no requirement to enforce federal civil immigration violations except in narrowly defined circumstances as cited in this Directive.

Law Enforcement must remain cognizant that New Jersey Attorney General Law Enforcement Directive No. 2005-1 and relevant revisions prohibiting Racially-Influenced Policing remains in effect.

**DIRECTIVE**

**I. Permitted Law Enforcement Activities**

- A. Enforcing the criminal laws of this state.
- B. Complying with all applicable federal, state, and local laws.

- C. Complying with a valid judicial warrant or other court order, or responding to any request authorized by a valid judicial warrant or other court order. A judicial warrant or other court order is one issued by a federal or state judge.
  - 1. A judicial warrant or court order is not the same as an immigration detainer—sometimes referred to as an Immigration and Customs Enforcement (ICE) detainer— or administrative warrant, both of which are currently issued not by judges, but by federal immigration officers.
- D. Participating with federal authorities in a joint law enforcement taskforce, the primary purpose of which is unrelated to federal civil immigration enforcement.
- E. Requesting proof of identity from an individual during the course of an arrest or when legally justified during an investigative stop or detention.
- F. Asking an arrested individual for information necessary to complete the required fields of the LIVESCAN database, or other law enforcement fingerprint database, including information about the arrestee’s place of birth and country of citizenship.
- G. Inquiring about a person’s place of birth on a correctional facility intake form and making risk-based classification assignments in such facilities.
- H. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it.
- I. When required by **exigent circumstances**, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment, or resources.
- J. Sending to, maintaining, or receiving from federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

## II. **Prohibited Law Enforcement Activities**

- A. Stop, question, arrest, search, or detain any individual based solely on:
  - 1. Actual or suspected citizenship or immigration status; or
  - 2. Actual or suspected violations of federal civil immigration law.
- B. Inquire about the immigration status of any individual, unless doing so is:
  - 1. Necessary to the ongoing investigation of an indictable offense by that individual; and
  - 2. The inquiry is relevant to the offense under investigation.

- C. Assisting federal immigration authorities when the sole purpose of that assistance is to enforce federal civil immigration law, including:
1. Participating in civil immigration enforcement operations.
  2. Providing any non-public personally identifying information regarding any individual, including any of the following:
    - a. Social security number
    - b. Credit card number
    - c. Unlisted telephone number
    - d. Driver's license number
    - e. Vehicle plate number
    - f. Insurance policy number
    - g. Active financial account number
  3. Providing access to any state, county, or local law enforcement equipment, office space, database, or property that is restricted for law enforcement use and not available to the general public.
  4. Providing access to a detained individual for an interview, unless the detainee signs a written consent form that explains all of the following:
    - a. The purpose of the interview
    - b. That the interview is voluntary
    - c. That the individual may decline to be interviewed, and
    - d. That the individual may choose to be interviewed only with his or her legal counsel present
  5. Providing notice of a detained individual's upcoming release from custody, unless the detainee:
    - a. Is currently charged with, has ever been convicted of, or has ever been adjudicated delinquent for a violent or serious offense, as cited on Attachment A.
    - b. In the past five years, has been convicted of an indictable crime other than a violent or serious offense; or
    - c. Is the subject of a Final Order of Removal that has been signed by a federal judge and lodged with the Correctional Facility where the detainee is being held.
  6. Continuing the detention of an individual past the time he or she would otherwise be eligible for release from custody based solely on a civil immigration detainer request, unless the detainee:

- a. Is currently charged with, has ever been convicted of, or has ever been adjudicated delinquent for a violent or serious offense, as cited on Attachment A.
- b. In the past five years, has been convicted of an indictable crime other than a violent or serious offense; or
- c. Is subject to a Final Order of Removal that has been signed by a federal judge and lodged with the Correctional Facility where the detainee is being held.

Any such detention may last only until 11:59 pm on the calendar day on which the person would otherwise have been eligible for release.

### **III. Agreements with the Federal Government**

- A. No county or local law enforcement agency operating in Morris County shall enter into, modify, renew, or extend any agreement to exercise federal immigration authority pursuant to Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. 1357(g), unless:
  1. The New Jersey Attorney General grants written approval; or
  2. The agreement is necessary to address threats to the public safety or welfare of New Jersey residents arising out of a declaration of a state or national emergency.

No county or local law enforcement officer shall otherwise exercise federal civil immigration authority outside the context of Section 287(g). Nothing in Sections I and II of this Directive shall apply to law enforcement agencies that are party to an agreement to exercise federal immigration authority pursuant to Section 287(g) when they are acting pursuant to such agreement.

- B. Nothing in Sections I and II of this Directive shall apply to law enforcement agencies that are currently party to an Intergovernmental Service Agreements (IGSA) to detain individuals for civil immigration enforcement purposes when they are acting pursuant to such agreement.

### **IV. "T" and "U" Non-Immigrant Status Certifications**

- A. Applications for "T" Visa certifications are available to persons who are victims of a severe form of trafficking in persons, as defined in Part C of USCIS Form I-914 Supplement B (Attached), and are requesting temporary immigration benefits.
  1. For "T" Visa certification requests, each agency's certification procedure shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-914 Supplement B, the requester:
    - a. Is or has been a victim of a severe form of trafficking in persons; and
    - b. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.

- B. Applications for “U” Visa certifications are available to persons who are victims of an enumerated crime(s) identified in Part 3 of USCIS Form I-918 Supplement B (Attached), and are requesting temporary immigration benefits.
  - 1. For “U” Visa certification requests, each agency’s procedure shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-918 Supplement B, the applicant:
    - a. Is a victim of qualifying criminal activity; and
    - b. Was, is, or is likely to be, helpful in the investigation or prosecution of that activity.
- C. Prior to March 15, 2019, all county and local law enforcement agencies must establish procedures for processing requests for “T” and “U” Visa certifications within 120 days of the request being made.
  - 1. All law enforcement agencies are required to post these procedures on its website, or, if the agency does not have its own website, then the local government website will suffice.
- D. Law enforcement personnel may ask any questions necessary for the purposes of completing a “T” or “U” Visa certification.
  - 1. Law enforcement personnel may generally not disclose the immigration status of a person requesting “T” or “U” Visa certification, except to comply with state or federal law or legal process, or if authorized by the Visa applicant. However, nothing in this section shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official from sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

V. **Required Notifications to Detainees**

- A. County and local law enforcement agencies and officials shall promptly notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:
  - 1. To interview the detainee. (Refer to II.C.4.)
  - 2. To be notified of the detainee’s upcoming release from custody. (Refer to II.C.5.)
  - 3. To continue detaining the individual past the time he or she would otherwise be eligible for release. (Refer to II.C.6.)

When providing such notification, law enforcement officials shall provide the detainee with a copy of any documents provided by federal immigration authorities in connection with the request.

**VI. Policy Establishment**

- A. Every county and local law enforcement agency operating in Morris County shall adopt and/or revise their existing policies and practices, consistent with New Jersey Attorney General Directive 2018-6, and this Directive.

**VII. Annual Reporting**

- A. Every calendar year, each county and local law enforcement agency operating in Morris County shall provide a report to the Morris County Prosecutor, in a manner to be prescribed by the New Jersey Attorney General, any instances in which the agency provided assistance to federal civil immigration authorities for the purposes of enforcing federal civil immigration law as described in II.C.1-6 of this Directive.
  - 1. The Morris County Prosecutor's Office will compile the reports and submit a consolidated report to the New Jersey Attorney General detailing the agencies' assistance by a date prescribed by the Attorney General.

**VIII. Training Deadline**

- A. Every county and local law enforcement agency operating in Morris County shall provide training to all officers in their respective agencies regarding the provisions of this Directive prior to March 15, 2019, and report the completion of the same in writing to the County Prosecutor.

**IX. Morris County Prosecutor's Office Procedural Mandate**

- A. Every county and local law enforcement agency operating in Morris County shall immediately notify the Morris County Prosecutor's Office Intelligence Unit / Homeland Security Unit any time that federal civil immigration authorities make an inquiry concerning any issue within that respective jurisdiction, or anytime a county or local law enforcement agency operating in Morris County desires to communicate with federal civil immigration authorities.
  - 1. The Morris County Prosecutor's Office Intelligence Unit / Homeland Security Unit can be contacted during business hours (8:30 am – 4:30 pm) at 973-285-6200. After hours, weekends and holidays, contact the Morris County Communications Center at 973-285-2900 and request that the On-Call Detective from that Unit contact your agency on your behalf.
    - a. The On-Call Detective shall immediately advise the MCPO Chief of Investigations via chain of command.

b. The Chief of Investigations shall promptly advise the Prosecutor, who if necessary, will assign legal staff to guide the involved law enforcement agency with the issue.

B. Regardless of the degree of involvement with federal civil immigration authorities, every county and local law enforcement agency operating in Morris County shall promptly memorialize the incident on a report and forward the same to the Morris County Prosecutor's Office Chief of Investigations.



Attachment A

## MORRIS COUNTY PROSECUTOR'S OFFICE

Administration & Records Bldg.

P.O. Box 900

Morristown, New Jersey 07963-0900

**FREDRIC M. KNAPP**  
PROSECUTOR  
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[prosecutor@co.morris.nj.us](mailto:prosecutor@co.morris.nj.us)

1. Any first or second degree offense, as defined in N.J.S.A 2C:43-1;
2. Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19;
3. Any other indictable offense listed in the chart below; *or*
4. Any indictable offense under the law of another jurisdiction that is the substantial equivalent to an offense described in paragraphs 1-3 above.

Chart of Additional Violent & Serious Offenses  
(Referenced in Paragraph 3 Above)

Statute	Description
2C:12-1	Assault
2C:12-1.1	Knowingly Leaving Scene of Motor Vehicle Accident Involving Serious Bodily Injury
2C:12-10	Stalking
2C:12-13	Throwing Bodily Fluid at Officers
2C:14-3	Criminal Sexual Contact
2C:16-1	Bias Intimidation
2C:17-1	Arson
2C:17-2	Causing Widespread Injury or Damage
2C:18-2	Burglary of a Dwelling
2C:24-4	Endangering the Welfare of Children
2C:28-5	Witness Tampering and Retaliation
2C:29-2B	Eluding a Law Enforcement Officer
2C:29-3A(5)	Hindering Apprehension of Another Using Force or Intimidation
2C:29-3B(2)	Hindering Apprehension of Oneself Using Force or Intimidation
2C:29-9	Criminal Contempt (Violation of Restraining Orders, Domestic Violence Orders, Etc.)
2C:40-3B	Aggravated Hazing



**Part 3. Criminal Acts**

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select all applicable boxes)

- Abduction
- Abusive Sexual Contact
- Attempt to Commit Any of the Named Crimes
- Being Held Hostage
- Blackmail
- Conspiracy to Commit Any of the Named Crimes
- Domestic Violence
- Extortion
- False Imprisonment
- Felonious Assault
- Female Genital Mutilation
- Fraud in Foreign Labor Contracting
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Solicitation to Commit Any of the Named Crimes
- Stalking
- Torture
- Trafficking
- Unlawful Criminal Restraint
- Witness Tampering

Provide the dates on which the criminal activity occurred.

- 2.a. Date (mm/dd/yyyy)
- 2.b. Date (mm/dd/yyyy)
- 2.c. Date (mm/dd/yyyy)
- 2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

\_\_\_\_\_  
\_\_\_\_\_

4.a. Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States?  
 Yes  No

4.b. If you answered "Yes," where did the criminal activity occur?  
\_\_\_\_\_  
\_\_\_\_\_

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?  
 Yes  No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.  
\_\_\_\_\_  
\_\_\_\_\_

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in Part I. Attach copies of all relevant reports and findings.  
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7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.  
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**Part 5. Family Members Culpable In Criminal Activity**

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim?  Yes  No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in Part 7. Additional Information.)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

3.d. Relationship

3.e. Involvement

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

4.d. Relationship

4.e. Involvement

**Part 6. Certification**

I am the head of the agency listed in Part 2. or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)

➔

2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number





# Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons

Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-914  
OMB No. 1615-0099  
Expires 01/31/2019

**START HERE - Type or print in blank ink.** This form should be completed by Federal, State, or local law enforcement authorities for victims under the Victims of Trafficking and Violence Protection Act, Public Law 106-386, as amended.

### PART A. Victim Information

Family Name (Last Name)      Given Name (First Name)      Middle Name (if any)  
           

Other Names Used (include maiden name/nickname)

Date of Birth (mm/dd/yyyy)      Gender  
       Male       Female

A # (if known)      Social Security # (if known)  
     

### Part B. Agency Information

Name of Certifying Agency

Name of Certifying Official      Title and Division/Office of Certifying Official  
     

Agency Address - Street Number and Name      Suite #  
     

City      State/Province      Zip/Postal Code  
           

Daytime Phone # (area code and/or extension)      Fax # (with area code)  
     

Agency Type  
 Federal       State       Local

Case Status  
 On-going       Completed       Local

Certifying Agency Category  
 Judge       Law Enforcement       Prosecutor       Other

Case Number      FBI # or SID # (if applicable)  
     

### Part C. Statement of Claim

1. The applicant is or has been a victim of a severe form of trafficking in persons. Specifically, he or she is a victim of: (Check all that apply. Base your analysis on the practices to which the victim was subjected rather than on the specific violations charged, the counts on which convictions were obtained, or whether any prosecution resulted in convictions. Note that the definitions that control this analysis are not the elements of criminal offenses, but are those set forth at 8 CFR 214.11(a).)

- Sex trafficking in which a commercial sex act was induced by force, fraud, or coercion. Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- Sex trafficking and the victim is under the age of 18.

For USCIS Use Only	
Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	
Remarks	

**Part C. Statement of Claim** (Continued)

- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for subjection to involuntary servitude, peonage, debt bondage, or slavery.
- Not applicable.
- Other, specify on attached additional sheets.

2. Please describe the victimization upon which the applicant's claim is based and identify the relationship between that victimization and the crime under investigation/prosecution. Attach the results of any name or database inquiry performed in the investigation of the case, as well as any relevant reports and findings. Include relevant dates, etc. Attach additional sheets, if necessary.

3. Has the applicant expressed any fear of retaliation or revenge if removed from the United States? If yes, explain. Attach additional sheets, if necessary.

4. Provide the date(s) on which the acts of trafficking occurred.

Date (mm/dd/yyyy)	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)	Date (mm/dd/yyyy)

5. List the statutory citation(s) for the acts of trafficking being investigated or prosecuted, or that were investigated or prosecuted.

6. Provide the date on which the investigation or prosecution was initiated.

Date (mm/dd/yyyy)

7. Provide the date on which the investigation or prosecution was completed (if any).

Date (mm/dd/yyyy)

**Part D. Cooperation of Victim** *(Attach additional sheets, if necessary)*

The applicant:

- Has complied with requests for assistance in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- Has failed to comply with requests to assist in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- Has not been requested to assist in the investigation/prosecution of any crime of trafficking.
- Has not yet attained the age of 18.
- Other, specify on attached additional sheets.

**Part E. Family Members Implicated In Trafficking**

Yes  No Are any of the applicant's family members believed to have been involved in his or her trafficking to the United States? If "Yes," list the relative(s) and describe the involvement. Attach additional sheets if necessary.

Full Name	Relationship	Involvement

**Part F. Attestation**

Based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make, no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the acts of trafficking of which he/she is a victim, I will notify USCIS.

**Signature of Law Enforcement Officer** *(identified in Part B) (sign in ink)*

**Date** *(mm/dd/yyyy)*

**Signature of Supervisor of Certifying Officer** *(sign in ink)*

**Date** *(mm/dd/yyyy)*

**Printed Name of Supervisor**